

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

QWEST CORPORATION,

Plaintiff/Counter-Defendant,

v.

CIV 10-0617 RB/KBM

CITY OF SANTA FE,

Defendant/Defendant-Counter-Plaintiff.

**ORDER DENYING CITY'S MOTION TO SHOW CAUSE**

THIS MATTER comes before the Court on Defendant's Motion to Show Cause and to Impose Sanctions (*Doc. 181*). Having reviewed the parties' submissions and relevant authorities, I find that Defendant's Motion is not well-taken and should be denied.

Defendant's Motion concerns the expert opinion, offered first in the form of a Declaration and subsequently in an Initial Report, of William Fitzsimmons, Ph.D. on behalf of Plaintiff. *See Docs. 164, 191.* I have previously ruled on the adequacy of Plaintiff's discovery responses concerning Dr. Fitzsimmons' report at least three times. *See Docs. 125, 164, 191.* Most recently, I allowed Defendant to determine the full factual basis of Dr. Fitzsimmons' opinions in his deposition, to be taken at Plaintiffs' expense. *See Doc. 191.*

Defendant offers no new information or evidence in support of its Motion, which asks the Court to strike Dr. Fitzsimmons' expert opinion. I agree with Plaintiff that many of Defendants arguments are appropriate only in the context of a *Daubert* motion. The Motion is merely a transparent rehashing of Defendant's previous arguments for discovery sanctions. I find that this issue has been ruled on, and the Motion should have been withdrawn.

**Wherefore,**

**IT IS ORDERED THAT** Defendant's Motion to Show Cause and to Impose Sanctions

*(Doc. 181)* is **denied.**



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**UNITED STATES CHIEF MAGISTRATE JUDGE**